

PUBLIC HEARING -- January 17, 1973

Application No. 11240. Leonard A. Solomon, appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and carried by a vote of 4-0, the following Order of the Board was entered at the meeting of January 23, 1973.

ORDERED:

Application of Leonard A. Solomon for variance from the use provisions of the R-4 District to permit storage of equipment and construction materials at 600 Newton Place, N. W., lots 77 & 80, Square 3038 be DENIED.

FINDINGS OF FACT:

1. Subject property is located in an R-4 District which is defined by the Zoning Regulations as an area of row dwellings and conversions; essentially an apartment house district.
2. At the present time the subject property is vacant; the proposed use of the property is to store construction equipment and materials.
3. It is the applicant's testimony that the property has served as a public dumping ground for kids, as well as a short cut to school. It has become a general nuisance and it is difficult for the owner to keep the lot clean.
4. It is the applicant's intention to store construction materials on the premises and to fence the property with a metal fence.
5. The property is zoned residential and testimony of the applicant revealed that as a matter of fact that because of the character of the property itself, there is no reason why the premises cannot be utilized as it is zoned.
6. The case herein is filed under the use variance clause of the regulations which obligates the Board to the strict interpretation of the term "hardship".
7. Substantial opposition against the application herein was voiced at the public hearing and many petitions were submitted to the file for the Board's consideration.

8. The crux of the community's opposition to this application is that this area is completely residential and the proposed use, a junk yard, in the center of a residential block, is detrimental to the health of those persons residing within the area. Rodents and air pollution are added potential threats to the community.

OPINION:

We have diligently studied the whole record as presented by the applicant and are of the opinion that pursuant to Palmer v. Board of Zoning Adjustment, this Board has no alternative but to deny the application herein.

We are obliged by the courts to adhere strictly to the standards set forth in Palmer, which are extreme and uncompromisingly strict. This is a use variance request to establish a storage area in a residential area; and by testimony of the applicant himself the property is capable of being utilized as it is zoned.

We have no option but to DENY the request for relief in the form of a use variance.

We are of the opinion that appellant has not proved a hardship within the meaning of the variance clause of the Zoning Regulations and that a denial of the requested relief will not result in peculiar and exceptional practical difficulties and undue hardship upon the owner.

Further, we hold that the requested relief cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED

BY: George A. Grogan
GEORGE A. GROGAN
Secretary of the Board

April 11, 1973